

ORDINANCE NO. 2033

**AN ORDINANCE AMENDING CENTRAL POINT MUNICIPAL CODE CHAPTER 17 ZONING SECTION 17.05 ADDING 17.05.550 MAKING CHANGES TO THE APPEAL PROCEDURE FOR TYPE II AND TYPE III LAND USE DECISIONS.**

**RECITALS:**

- A. Words ~~lined through~~ are to be deleted and **words in bold** are added.
- B. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- C. On February 7, 2017, the Central Point Planning Commission recommended approval of code amendments to CPMC Chapter 17.05 – Applications and Development Permit Review Procedures making changes to the appeal procedure for Type II and Type III land use decisions.
- D. On February 9, 2017, the City of Central Point City Council held a property advertised public hearing; reviewed the Staff Report and findings; heard testimony and comments, and deliberated on approval of the Municipal Code Amendment.

**THE PEOPLE OF CENTRAL POINT DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Amendments to Section 17.05 adds a section to the zoning code that singles out appeal procedure as its own category

**Chapter 17.05**

**APPLICATIONS AND DEVELOPMENT PERMIT REVIEW PROCEDURES**

Sections:

17.05.100 Purpose and applicability of review procedures.

17.05.200 Type I procedure.

17.05.300 Type II procedure.

17.05.400 Type III procedure.

17.05.500 Type IV procedure.

**17.05.550 Appeal Procedure.**

17.05.600 General procedural provisions.

17.05.700 Expedited land divisions.

17.05.800 Reserved.

17.05.900 Traffic impact analysis.

**SECTION 2.** Amendments to Title 17.05.100 clarifies purpose and applicability of review procedures for Type II procedures.

**17.05.100 Purpose and applicability of review procedures.**

A. Purpose. The purpose of this chapter is to establish standard decision-making procedures that will enable the city, the applicant, and the public to review development permit applications and participate in the local decision-making process in a timely and effective way consistent with the citizen's involvement element of the comprehensive plan. Table 17.05.1 provides a key to identify the review procedures, applicable regulations, and the approving authority for development permit applications.

B. Applicability of Review Procedures. All development permit applications identified in Table 17.05.1 shall be decided by using the appropriate procedures contained in this chapter. The procedural "type" assigned to each development permit application governs the decision-making process for that permit. There are four "types" of procedures: Type I, II, III, and IV, which are described as follows:

1. Type I. Type I procedures apply to administrative decisions made by the community development director or designee without public notice and without a public hearing. Type I procedures are used only when there are clear and objective approval standards and criteria, the application of which does not require the use of discretion.

A Type I decision is the city's final decision. There are no appeals to a Type I procedural decision.

2. Type II. Type II procedures apply to administrative decisions that involve clear and objective approval standards and criteria the application of which requires the use of limited discretion. Type II decisions are made by the community development director or designee with public notice, and an opportunity for a public hearing if appealed. The appeal of a Type II decision is treated as a Type III procedure, except that ~~the scope of the hearing is limited as provided in subsection (B)(3) of this section, and is considered the city's final decision.~~ **appeal is to the Planning Commission, which is the final decision of the city.**

3. Type III. Type III procedures are quasi-judicial decisions that involve the application of existing policies. Type III decisions generally use discretionary approval criteria, and do not have a significant effect beyond the immediate area of the application. Type III decisions are based on special studies or other information which will serve as the factual basis to support the decision. Type III decisions, when made by the planning commission, may be appealed to the city council.

4. Type IV Procedure. Type IV decisions are legislative decisions that establish by law general policies and regulations for future land use decisions, such as the adoption or revision of the comprehensive plan, and revisions to the zoning and the land division ordinance that have widespread and significant impact beyond the immediate area, i.e., quantitative changes producing large volumes of traffic, or a qualitative change in the character of the land use itself, such as conversion of residential to industrial use; or a spatial change that affects large areas or many different ownerships. Unless otherwise noted, all Type IV decisions are considered initially by the citizens advisory committee and the planning commission, with final decisions made by the city council.

Table 17.05.1 provides a key to identify the review procedure for each land development permit.

TABLE 17.05.1				
LAND DEVELOPMENT PERMIT*	PROCEDURAL TYPE	APPLICABLE REGULATIONS	APPROVING AUTHORITY	120-DAY RULE
Annexation				
Quasi-Judicial	Type III	Chapter <u>1.20</u>	City Council	No
Legislative	Type IV	Chapter <u>1.20</u>	City Council	No
Comprehensive Plan & UGB Amendments				
Major	Type IV	Chapter <u>17.96</u>	City Council	No
Minor	Type III	Chapter <u>17.96</u>	City Council	No
Conditional Use Permit	Type III	Chapter <u>17.76</u>	Planning Commission	Yes
Conversion Plan	Type II	Chapter <u>16.32</u>	Director	Yes
Extensions				
Type I Procedures	Type I	Section <u>17.05.200(G)</u>	Director	Yes
Type II Procedures	Type II	Section	Director	Yes

TABLE 17.05.1

LAND DEVELOPMENT PERMIT*	PROCEDURAL TYPE	APPLICABLE REGULATIONS	APPROVING AUTHORITY	120-DAY RULE
		<u>17.05.300(H)</u>		
Home Occupation	Type I	Section <u>17.60.190</u>	Director	Yes
Land Division				
Tentative Plan, Partition	Type II	Chapter <u>16.36</u>	Director	Yes
Tentative Plan, Subdivision	Type III	Chapter <u>16.10</u>	Planning Commission	Yes
Final Plat	Type I	Chapter <u>16.12</u>	Director	No
Property Line Adjustment/Consolidation	Type I	Chapter <u>16.10</u>	Director	Yes
Modification of Approval				
Major	Type III	Section <u>17.09.300</u>	Planning Commission	Yes
Minor	Type II	Section <u>17.09.400</u>	Director	Yes
Nonconforming Use Designation	Type III	Section <u>17.56.040</u>	Planning Commission	No
Planned Unit Development	Type III	Chapter <u>17.68</u>	Planning Commission	Yes
Right-of-Way Vacation	Type IIIV	Chapter <u>12.28</u>	City Council	No
Site Plan and Architectural Review				
Minor	Type I	Chapter <u>17.72</u>	Director	Yes
Major	Type II	Chapter <u>17.72</u>	Director	Yes
TOD District/Corridor Master Plan	Type III	Chapter <u>17.66</u>	Planning Commission	Yes
Tree Removal	Type II	Chapter <u>12.36</u>	Director	Yes
Variance				
Class A	Type II	Section <u>17.13.300</u>	Director	Yes
Class B	Type III	Section <u>17.13.400</u>	Planning Commission	Yes

TABLE 17.05.1

LAND DEVELOPMENT PERMIT*	PROCEDURAL TYPE	APPLICABLE REGULATIONS	APPROVING AUTHORITY	120-DAY RULE
Class C	Type III	Section <u>17.13.500</u>	Planning Commission	Yes
Zoning Map and Zoning and Land Division Code Text Amendments				
Minor	Type III	Chapter <u>17.10</u>	City Council	Yes
Major	Type IV	Chapter <u>17.10</u>	City Council	No

\* An applicant may be required to obtain approvals from other agencies, such as the Oregon Department of Transportation, or Rogue Valley Sewer. The city may notify other agencies of applications that may affect their facilities or services.

(Ord. 1989 §1(part), 2014; Ord. 1941 §§1, 2, 3, 2010; Ord. 1874 §1(part), 2006).

**SECTION 3.** Amendments to Title 17.05.300 clarifies noticing, statement of issues and timelines for Type II procedure.

**17.05.300 Type II procedure.**

A. Pre-Application Conference. A pre-application conference is optional for a Type II permit application. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

**B. Application Requirements.**

1. Application Forms. Type II applications shall be made on forms provided by the planning department for the land development permit requested.

2. Submittal Requirements. A Type II permit application shall include:

a. The information requested on the application form;

b. Findings addressing the applicable regulations per Table 17.05.1. Note: At the discretion of the community development director, additional information may be required during the application process;

c. One set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in subsection C of this section. The records of the Jackson County assessor's office are the official records for determining ownership. The applicant shall produce the notice list using the most current Jackson County assessor's real property assessment records to produce the notice list. The city shall mail the notice of application; and

d. The required fee.

3. Notice of Acceptance. Within fourteen days of submittal, the community development director or designee shall notify the applicant in writing of:

a. The procedural type used for the application. In some circumstances, a Type II application may be referred to a Type III procedure. When such a referral is made, it shall be made at the time of notice of acceptance, after which the application shall be processed as a Type III application. When a Type II application is referred to a Type III application, no new application is required; and

b. Acceptance of the application; or

c. Non acceptance of the application with an itemization of the deficiencies and deadline for correction of the deficiencies.

C. Notice of Application for Type II Decision.

~~1. Before making a Type II decision, the community development director or designee shall mail notice to:~~

~~a. All owners of record of real property within a minimum of one hundred feet of the exterior boundaries of the subject site;~~

~~b. All city recognized neighborhood groups or associations whose boundaries include the site;~~

~~c. Any person who submits a written request to receive a notice; and~~

**d. 1. No less than 20 days before the community development director makes a decision, written notice of the application shall be mailed to all of the following:**

**a. Applicant;**

**b. Owners of record of the subject property;**

**c. Owners of record within a minimum of one hundred feet of the exterior boundaries of the site;**

**d. All city-recognized neighborhood groups or associations whose boundaries include the site;**

**e. Any person who submits a written request to receive a notice; and**

f. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies. The city shall notify the county or ODOT, and the rail authority, when there is a proposed development abutting or within one hundred feet of an affected transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

**2. The notice of a ~~pending Type II administrative decision application~~ shall include:**

~~a. Provide a fourteen-day period for submitting written comments before a decision is made on the permit;~~

**a. The street address or other easily understood reference to the site;**

~~b. List~~ The relevant approval criteria by name and number of code sections;

~~c. State~~ The place, date and time the comments are due, and the person to whom the comments should be addressed;

~~d. Include the name and telephone number of a contact person regarding the administrative decision;~~

**d. A description of the proposal and identification of the specific permits or approvals requested;**

**e. A statement of the issues that may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing and with sufficient specificity to enable the decision maker to respond to the issue;**

**f. The name and phone number of a city contact person;**

**g. A brief summary of the local decision making process for the decision being made;**

~~g. State that, if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the land use board of appeals or circuit court on that issue and that only comments on relevant approval criteria are considered relevant evidence;~~

h. **State A statement** that all evidence relied upon by the community development director or designee to make this decision is in the public record, available for public review. Copies of this evidence may be obtained at a reasonable cost from the city;

i. **State A statement** that, after the comment period closes, the community development director or designee shall issue a Type II administrative decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice; **and**

j. Contain the following notice:

Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.

**3. The notice shall allow a 14-day period for the submission of written comments, starting from the date of mailing. All comments must be received by the city by 5:00 p.m. on that 14th-day.**

D. Administrative Decision Requirements. The community development director or designee shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the community development director or designee shall approve, approve with conditions, or deny the requested permit or action.

E. Notice of Decision.

1. Within five days after the community development director or designee signs the decision, a notice of decision shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;

b. Any person who submitted a written request to receive notice, or provides comments during the application review period;

c. Any city-recognized neighborhood group or association whose boundaries include the site;  
**and**

d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city, and other agencies that were notified or provided comments during the application review period; and

**e. Property owners located within 100 feet of the exterior boundaries of the subject property.**

2. The community development director or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

3. The Type II notice of decision shall contain:

a. A description of the applicant's proposal and the city's decision on the proposal (i.e., may be a summary);

b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;

c. A statement of where a copy of the city's decision, and the complete planning file may be reviewed and the name and contact number of the city staff to contact about reviewing the file;

d. The date the decision shall become final, unless appealed;

e. A statement that ~~all persons entitled to notice~~ only **the applicant and persons who submitted comments prior to the comment deadline** may appeal the decision; and

f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

F. Effective Date. A Type II decision is final for purposes of appeal when the notice of decision per subsection E of this section is mailed by the city and becomes effective ten days from the date of mailing of the notice of decision. If an appeal is filed within the ten-day period, the decision does not become effective until the appeal is decided. **Appeal process is governed by Section 17.05.550.**

~~G. Appeal. A Type II decision may be appealed to the planning commission as follows:~~

~~1. Who May Appeal. The following people have legal standing to appeal a Type II decision:~~

- a. ~~The applicant or owner of the subject property;~~
- b. ~~Any person who was entitled to written notice of the Type II decision;~~
- c. ~~Any other person who participated in the proceeding by submitting written comments.~~

## ~~2. Appeal Filing Procedure.~~

- a. ~~Notice of Appeal. Any person with standing to appeal, as provided in subsection (G)(1) of this section, may appeal a Type II decision by filing a notice of appeal according to the following procedures;~~
- b. ~~Time for Filing. A notice of appeal shall be filed with the community development director or designee within ten days from the date the notice of decision was mailed;~~
- c. ~~Content of Notice of Appeal. The notice of appeal shall contain:~~
  - i. ~~An identification of the decision being appealed, including the date of the decision;~~
  - ii. ~~A statement demonstrating the person filing the notice of appeal has standing to appeal;~~
  - iii. ~~A statement explaining the specific issues being raised on appeal;~~
  - iv. ~~If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and~~
  - v. ~~The applicable filing fee.~~

~~3. Scope of Appeal. The appeal of a Type II decision by a person with standing shall be a hearing before the planning commission. The appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II review.~~

~~4. Appeal Procedures. Type III notice, hearing procedures, and decision process shall be used for all Type II appeals, as provided in Sections 17.05.400(C) through (E).~~

~~5. Final Decision. The decision of the planning commission regarding an appeal of a Type II decision is the final decision of the city.~~

**HG. Extensions.** The community development director shall, upon written request by the applicant and payment of the required fee, grant a written one-year extension of the original or last extension approval period, provided:

1. The land development permit authorizes extensions;
2. No changes are made to the original application as approved by the city;
3. There have been no changes in the zoning, land division code, or applicable comprehensive plan provisions on which the approval was based. In the case where the plan conflicts with a code or comprehensive plan change, the extension shall be either:
  - a. Denied; or
  - b. At the discretion of the community development director, the request for extension may be re-reviewed as a modification per Section 17.09.300;
4. The extension request is filed on or before the expiration of the original or latest extension approval per subsection F of this section;
5. If the time limit expired and no extension request has been filed, the application shall be void. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

**SECTION 4.** Amendments to Title 17.05.400 clarifies noticing, statement of issues and timelines for Type III procedure.

**17.05.400 Type III procedure.**

**A. Pre-Application Conference.** A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

**B. Application Requirements.**

1. **Application Forms.** Type III applications shall be made on forms provided by the community development director or designee for the land development permit requested.
2. **Submittal Requirements.** When a Type III application is required, it shall include:
  - a. A completed application form with required attachments;

b. One copy of a narrative statement (findings and conclusions) that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: Additional information may be required under the specific applicable regulations for each approval as referenced in Table 17.05.1;

c. The required fee; and

d. One set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in subsection C of this section. The records of the Jackson County assessor's office are the official records for determining ownership. The applicant shall produce the notice list using the most current Jackson County assessor's real property assessment records to produce the notice list. The city shall mail the notice of application. The failure of a property owner to receive notice as provided in subsection C of this section shall not invalidate such proceedings provided the city can demonstrate by affidavit that such notice was given.

#### C. Notification Requirements.

1. Mailed Notice. The city shall mail the notice of the Type III hearing. Notice of a Type III hearing shall be given by the community development director or designee in the following manner:

a. At least twenty days before the hearing date, or if two or more hearings are allowed, ten days before the first hearing, notice shall be mailed to:

i. The applicant and all owners or contract purchasers of record of the property on the most recent property tax assessment roll that is the subject of the application;

ii. All property owners of record on the most recent property tax assessment roll within one hundred feet of the site, including tenants of a mobile home or manufactured dwelling park;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies. The city shall notify the county road authority, or ODOT, and rail authority for applications that are abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application;

iv. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;

v. Any neighborhood or community organization recognized by the city council and whose boundaries include the property proposed for development;

vi. Any person who submits a written request to receive notice;

vii. ~~For appeals, the appellant and all persons who provided testimony in the original decision;~~  
and

viii. At the applicant's discretion, notice may also be provided to the Department of Land Conservation and Development.

b. The community development director or designee shall prepare an affidavit of notice and the affidavit shall be made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who were sent notice.

2. Content of Notice. Notice of a Type III hearing shall be mailed per subsection C of this section and shall contain the following information:

a. An explanation of the nature of the application and the proposed land use or uses that could be authorized for the property;

b. The applicable criteria and standards from the zoning and subdivision code and comprehensive plan that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The date, time, and location of the public hearing;

e. A statement that the failure to raise an issue in person, or in writing at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue prior to the close of the final hearing means that an appeal based on that issue cannot be raised at the State Land Use Board of Appeals;

f. The name of a city representative to contact and the telephone number and email address where additional information on the application may be obtained;

g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at the city of Central Point City Hall at no cost and that copies shall be provided at a reasonable cost;

h. A statement that a copy of the city's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;

i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and

j. The following notice:

Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.

#### D. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance:

a. The applicable approval criteria and standards that apply to the application or appeal;

b. A statement that testimony and evidence shall be directed at the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue;

d. Before the conclusion of the first evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per subsection (D)(2) of this section, or by leaving the record open for additional written evidence or testimony per subsection (D)(3) of this section.

2. If the hearings body grants a continuance, the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven additional days, so that they can submit additional written evidence or testimony in response to the new written evidence.

3. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the city in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the hearings body shall reopen the record to allow rebuttal evidence.

- a. If the hearings body reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
- b. An extension of the hearing or record for a ~~limited land use granted~~ **Type III Application** pursuant to this subsection D is subject to the limitations of ORS 227.178 (“one-hundred-twenty-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
- c. If requested by the applicant, the hearings body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence. For limited land use decisions, the seven-day period shall not be subject to the limitations of ORS 227.178 and 227.179;
- d. The record shall contain all testimony and evidence that is submitted to the city and that the hearings body has not rejected;
- e. In making its decision, the hearings body may take official notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; ~~staff reports~~). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
- f. The city shall retain custody of the record until the city issues a final decision and all appeal deadlines have passed.

4. Participants in a ~~Type III~~ **quasi-judicial** hearing are entitled to an impartial review authority as free from potential conflicts of interest and prehearing ex parte contacts (see subsection (D)(5) of this section) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

- a. At the beginning of the public hearing, hearings body members shall disclose the substance of any prehearing ex parte contacts (as defined in subsection (D)(5) of this section) concerning the application or appeal. He or she shall also state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly. Hearing participants shall be entitled to question hearing body members as to ex parte contacts and to object to their participation as provided in subsection (D)(5)(b) of this section;
- b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have

an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

d. If all members of the hearings body abstain or are disqualified, the city council shall be the hearing body. If all members of the city council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;

e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

#### 5. Ex Parte Communications.

a. Members of the hearings body shall not:

i. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per subsection (C) of this section;

ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.

b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

c. A communication between city staff and the hearings body is not considered an ex parte contact.

#### 6. Presenting and Receiving Evidence.

- a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
- b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided in subsection (D)(3) of this section;
- c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence under subsection (D)(5)(b) of this section.

#### E. The Decision Process.

1. **Basis for Decision.** Approval or denial of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the city as a whole;
2. **Findings and Conclusions.** Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. **Form of Decision.** The hearings body shall issue a ~~final written order decision~~ containing the findings and conclusions stated in subsection (E)(2) of this section, which either approves, denies, or approves with specific conditions. The hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. **Decision-Making Time Limits.** ~~A final written order~~ **The written decision** for any Type III action **(including an appeal from a Type II decision)** shall be filed with the community development director or designee within ten days after the close of the deliberation;
5. **Notice of Decision.** Written notice of a Type III decision shall be mailed to the applicant and to all participants of record within ten days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision; provided, that a good faith attempt was made to mail the notice.
6. **Final Decision and Effective Date.** The decision of the hearings body on any Type III application is final for purposes of appeal on the date it is mailed by the city. The decision is effective on the day after the **local** appeal period expires. If an appeal of a Type III decision is

filed, the decision becomes effective on the day after the **local** appeal is decided by the **city council hearings body**. **Appeal process is governed by Section 17.05.550**. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within twenty-one days after the city council's written decision is mailed by the city.

~~F. Appeal. A Type III decision made by the planning commission may be appealed to the city council as follows:~~

~~1. Who May Appeal. The following people have legal standing to appeal a Type III decision:~~

- ~~a. The applicant or owner of the subject property;~~
- ~~b. Any person who was entitled to written notice of the Type III decision;~~
- ~~c. Any other person who participated in the proceeding by submitting written comments.~~

~~2. Appeal Filing Procedure.~~

~~a. Notice of Appeal. Any person with standing to appeal, as provided in subsection (F)(1) of this section, may appeal a Type III decision by filing a notice of appeal according to the following procedures;~~

~~b. Time for Filing. A notice of appeal shall be filed with the community development director or designee within ten days of the date the notice of decision was mailed;~~

~~c. Content of Notice of Appeal. The notice of appeal shall contain:~~

- ~~i. An identification of the decision being appealed, including the date of the decision;~~
- ~~ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;~~
- ~~iii. A statement explaining the specific issues being raised on appeal;~~
- ~~iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and~~
- ~~v. The applicable filing fee.~~

~~3. Scope of Appeal. The appeal of a Type III decision is limited to the issues and evidence in the record before the hearing body.~~

~~4. Appeal Procedures. Type III notice, hearing procedure and decision process shall also be used for all Type III appeals, as provided in subsections C through E of this section;~~

~~5. Final Decision. The decision of the city council regarding an appeal of a Type III decision is the final decision of the city.~~

**G.F Extensions.** The community development director shall, upon written request by the applicant and payment of the required fee, grant a written one-year extension of the original or last extension approval period, provided:

1. The land development permit authorizes extensions;
2. No changes are made to the original application as approved by the city;
3. There have been no changes in the zoning, land division code, or applicable comprehensive plan provisions on which the approval was based. In the case where the plan conflicts with a code or comprehensive plan change, the extension shall be either:
  - a. Denied; or
  - b. At the discretion of the community development director, the request for extension may be re-reviewed as a modification per Section 17.09.400;
4. The extension request is filed on or before the expiration of the original or latest extension approval per subsection (E)(6) of this section;
5. If the time limit expired and no extension request has been filed, the application shall be void. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

**SECTION 5.** Amendments to Title 17.05.500 are not necessary as there is no change for Type IV procedure

**17.05.500 Type IV procedure.**

**A. Pre-Application Conference.** A pre-application conference is required for all Type IV applications initiated by a party other than the city of Central Point. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

**B. Timing of Requests.** Acceptance timing varies for Type IV applications (see Table 17.05.1 for applicable section reference).

**C. Application Requirements.**

1. **Application Forms.** Type IV applications shall be made on forms provided by the community development director or designee.

2. **Submittal Information.** The application shall contain:

a. The information requested on the application form;

b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);

c. The required fee; and

d. One copy of a letter or narrative statement (findings and conclusions) that explains how the application satisfies each and all of the relevant approval criteria and standards applicable to the specific Type IV application.

**D. Notice of Hearing.**

1. **Required Hearings.** A minimum of two hearings, one before the planning commission and one before the city council, are required for all Type IV applications.

2. **Notification Requirements.** Notice of public hearings shall be given by the community development director or designee in the following manner:

a. At least ten days, but not more than forty days, before the date of the first hearing, a notice shall be mailed to:

i. Any affected governmental agency;

ii. Any person who requests notice in writing;

b. At least ten days before the first public hearing date, and fourteen days before the city council hearing date, public notice shall be published in a newspaper of general circulation in the city.

c. The community development director or designee shall:

i. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection (D)(2)(a) of this section; and

ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection (D)(2)(b) of this section.

d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments within the time period prescribed by DLCD. The notice to DLCD shall include a DLCD certificate of mailing.

3. Content of Notices. The mailed and published notices shall include the following information:

a. The number and title of the file containing the application, and the address and telephone number of the community development director or designee's office where additional information about the application can be obtained;

b. The proposed site location, if applicable;

c. A description of the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;

d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the council and available at City Hall (see subsection E of this section).

E. Hearing Process and Procedure--Conduct of Public Hearing.

1. Unless otherwise provided in the rules of procedure adopted by the city council:

a. The presiding officer of the planning commission and of the city council shall have the authority to:

i. Regulate the course, sequence, and decorum of the hearing;

ii. Direct procedural requirements or similar matters;

iii. Impose reasonable time limits for oral presentations; and

iv. Waive the provisions of this chapter so long as they do not prejudice the substantial rights of any party.

b. No person shall address the commission or the council without:

i. Receiving recognition from the presiding officer; and

ii. Stating his or her full name and address.

c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the commission and of the council shall conduct the hearing as follows:

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a preliminary decision, such as a recommendation to the city council, or the final decision of the city;

b. The community development director or designee's report and other applicable staff reports shall be presented;

c. The public shall be invited to testify;

d. The public hearing may be continued to allow additional testimony or it may be closed; and

e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing. The planning commission or the city council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

G. Decision-Making Criteria Decision Process. The recommendations by the citizens advisory committee, the planning commission and the decision by the city council shall be based on the applicable criteria ~~as referenced in Table 17.05.1.~~

H. Approval Process and Authority.

1. The citizens advisory committee and planning commission shall:

a. The citizens advisory committee: after notice and discussion at a public meeting, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

b. The planning commission: after notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

c. Within ten days of adopting a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the community development director or designee.

2. Any member of the citizens advisory committee or planning commission who votes in opposition to the majority recommendation may file a written statement of opposition with the community development director or designee before the council public hearing on the proposal. The community development director or designee shall send a copy to each council member and place a copy in the record;

3. If the citizens advisory committee or planning commission does not adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty days of its first public hearing on the proposed change, the community development director or designee shall:

a. Prepare a report to the city council on the proposal, including noting the citizens advisory committee's or planning commission's actions on the matter, if any; and

b. Provide notice and put the matter on the city council's agenda for the city council to hold a public hearing and make a decision. No further action shall be taken by the citizens advisory committee or planning commission.

4. The city council shall:

a. Consider the recommendation of the citizens advisory committee and planning commission; however, the city council is not bound by the committee's or the commission's recommendation;

b. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application; and

c. If the application is approved, the council shall act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

#### I. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the citizens advisory committee present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

2. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

3. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.

J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five days after the city council decision is filed with the community development director or designee.

K. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon the date of mailing of the notice of decision to the applicant.

L. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;

2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;

3. The official record shall include:

a. All materials considered and not rejected by the hearings body;

b. All materials submitted by the community development director or designee to the hearings body regarding the application;

c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;

d. The final decision;

e. All correspondence; and

f. A copy of the notices that were given as required by this chapter. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

**SECTION 6.** Amendments to Title 17.05.550 adds new section for Type II and Type III procedure.

**17.05.550 Appeal procedure – Type II and Type III decisions.**

**A. Appeal.** Type II decisions may be appealed to the planning commission. Type III decisions may be appealed to the City Council. All such appeals are subject to the following:

**1. Who May Appeal.** The following people have legal standing to appeal a Type II and/or Type III decision:

**a. The applicant or owner of the subject property;**

**b. Any person who participated in the proceeding by submitting timely written and/or oral comments on the record prior to the decision.**

**2. Appeal Filing Procedure.**

**a. Notice of Appeal.** Any person with standing to appeal, as provided in 17.05.550(A)(1), may appeal a decision by filing a notice of appeal according to the procedures in subsections 2(b) and 2(c) below:

**b. Time for Filing.** A notice of appeal shall be filed with the community development director or designee within ten (10) days from the date the notice of decision was mailed;

**c. Content of Notice of Appeal.** The notice of appeal shall contain:

**i. An identification of the decision being appealed, including the date of the decision;**

**ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;**

**iii. A statement explaining the specific issues being raised on appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the notice shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to ordinance, statute or other law, such errors shall be specifically identified in the notice along with the specific grounds relied upon for review;**

**iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised in the record; and**

**v. The applicable filing fee.**

**B. Scope of Appeal.** Type II and Type III appeals shall be on the record, which means the appeal is limited to the application materials, evidence, documentation, and specific issues raised in the initial proceeding. The decision maker shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence in the record to support the findings of the initial decision maker who heard the matter, or to determining whether errors of law were committed by such decision maker. Review shall in any event be limited to those issues set forth in the notice of appeal. The appellant is precluded from raising an issue on appeal if he or she could have raised the issue before the initial decision maker but failed to do so. Only the appellant and other parties who appeared in the initial proceedings may participate in the appeal hearing. Appellant shall make the initial presentation and shall be allowed rebuttal. Each participant in the appeal hearing shall present to the planning commission or city council, respectively, those portions of the record which the participant deems relevant to the appeal. If a party wishes the planning commission or city council, respectively, to review recorded testimony, the party shall present a written summary or transcript of such testimony to be reviewed.

**C. Notice of Hearing and Staff Report**

**1.** Upon timely receipt of the notice of appeal and filing fee, the community development director or his designee shall set the appeal for hearing before the planning commission for Type II appeals and city council for Type III appeals. The community development director or his designee shall notify the appellant and all parties who appeared in the initial proceedings of the time and place of the hearing by first class mail, enclosing a copy of the notice of appeal at least 20-calendar days before the date of the appeal hearing.

**2.** Not less than seven (7) calendar days before the date of the appeal hearing, the director or his designee shall prepare and make available to the public, for review and inspection, a copy of the staff report and shall provide a copy of the staff report to the planning commission or city council and to the appellant. The director shall provide a copy of the staff report to all other parties and members of the public at reasonable cost upon request.

**DC. Final Decision.** The reviewing body shall make a written decision which either affirms, reverses, or modifies in whole or in part the decision or any conditions of such decision, that is under review. When the hearings body modifies or renders a decision that reverses a decision of the approving authority, said hearings body shall, in its written decision, set forth its findings and state its reasons for taking the action encompassed by such decision. The decision of the planning commission regarding an appeal of a Type II decision is the final decision of the city. The decision of the city council regarding an appeal of a Type III decision is the final decision of the city.

**ED. Withdrawal of an Appeal.**

**1. Before the close of an appeal hearing in front of any appellate decision making authority, any appellant may withdraw his appeal.**

**2. Withdrawal of an appeal is subject to the following:**

**a. The party may withdraw the appeal on its own motion, which may be submitted to the appellate decision making authority orally or in writing.**

**b. No part of the appeal fee will be refunded.**

**c. No one may re-file a withdrawn appeal.**

**d. Where multiple people or parties sign and file a single appeal document, all must consent to the withdrawal of the appeal.**

**3. In addition to all the requirements of this section, if all appeals in a matter are withdrawn, the appellate decision making authority loses jurisdiction over the action. The underlying decision is automatically re-instated under its original date of final decision.**

**SECTION 7.** Amendments to Title 17.05.600 allows for revisions to proposals and references new section in code.

**17.05.600 General procedural provisions.**

**A. One-Hundred-Twenty-Day Rule.** In accordance with ORS 227.178, the city shall take final action on all land use decisions as identified in Table 17.05.1, including resolution of all appeals, within one hundred twenty days from the date the application is deemed as complete, unless the applicant requests an extension in writing. The total of all extensions may not exceed two hundred forty-five days. Any exceptions to this rule shall conform to the provisions of ORS 227.178.

**B. Time Computation.** In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

### C. Pre-Application Conferences.

1. **Participants.** When a pre-application conference is required, the applicant shall meet with the community development director or his/her designee(s) and such other parties as the community development director deems appropriate;

2. **Information Provided.** At such conference, the community development director or designee shall:

a. Cite the comprehensive plan policies and map designations that appear to be applicable to the proposal;

b. Cite the ordinance provisions, including substantive and procedural requirements that appear to be applicable to the proposal;

c. Provide available technical data and assistance that will aid the applicant;

d. Identify other governmental policies and regulations that relate to the application; and

e. Reasonably identify other opportunities or constraints concerning the application.

3. **Disclaimer.** Failure of the community development director or designee to provide any of the information required in this subsection C shall not constitute a waiver of any of the standards, criteria or requirements for the application;

4. **Changes in the Law.** Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

### D. Acceptance and Review of Applications.

#### 1. Initiation of Applications.

a. Applications for approval under this chapter may be initiated by:

i. Order of city council;

ii. Resolution of the planning commission;

iii. The community development director or designee;

iv. A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings may, at the option of the applicant, be consolidated for review and decision.

a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the respective approval authority having jurisdiction over each type procedure.

b. When proceedings are consolidated:

i. The notice shall identify each application to be consolidated;

ii. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and

iii. Separate findings shall be made for each consolidated application.

3. Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When an application is received by the city, the community development director or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:

i. The required form;

ii. The required fee;

iii. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

b. Completeness.

i. Review and Notification. After the application is accepted, the community development director or designee shall review the application for completeness. If the application is incomplete, the community development director or designee shall notify the applicant in writing

of exactly what information is missing within thirty days of receipt of the application and allow the applicant one hundred eighty days to submit the missing information.

ii. **Application Deemed Complete for Review.** In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the community development director or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit further information and requesting that the application be processed notwithstanding any identified incompleteness. For the refusal to be valid, the refusal shall be made in writing and received by the community development director or designee.

iii. If the applicant does not submit all of the missing information or provide written notice that no further information will be provided (whether some of the additional information has been provided or not) within one hundred eighty days of the date the initial submittal was accepted per subsection (D)(3)(a) of this section, the application is void.

iv. **Standards and Criteria That Apply to the Application.** Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted, unless the application is for a change to the comprehensive plan or land use regulations.

v. **Coordinated Review.** The city shall also submit the application for review and comment to the city engineer, road authority, and other applicable county, state, and federal review agencies.

4. **Changes or Additions to the Application.** Once an application is deemed complete per subsection (D)(3)(b) of this section:

a. All documents and other evidence relied upon by the applicant shall be submitted to the community development director or designee at least seven days before the notice of action or hearing is mailed. Documents or other evidence submitted after that date shall be received by the community development director or designee, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;

b. When documents or other evidence are submitted by the applicant during the review period but after the notice of action or hearing is mailed, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;

c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination to the approving authority that a significant change in the application has occurred as part of the decision. In the

~~alternate~~ **alternative**, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change, and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;

d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the city shall take one of the following actions, at the choice of the applicant:

i. Suspend the existing application and allow the applicant to submit a revised application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the one-hundred-twenty-day rule (subsection A of this section) on the existing application for a minimum of thirty (30) days from the date of the ~~amendment~~ **significant change** to allow the City to reprocess the revised application. If the applicant does not consent, the ~~city~~ **applicant may shall** not select this option

ii. Declare the application, based on the significant change, a new application and reprocess **as having been refiled as a new application as of the date the significant change was submitted accordingly; or**

**iii. Decide the application on the basis of the applicant's materials without the significant change.**

e. If a new application is submitted by the applicant, that applicant shall pay the applicable application fee and shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. Community Development Director's Duties. The community development director or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the city's comprehensive plan, and implementing ordinance provisions;

2. Accept all development applications that comply with this section;

3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or nonconformance with the criteria. The staff report may also provide a recommended decision of approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;

4. Prepare a notice of the ~~proposal~~ **proposed** decision:

a. In the case of an application subject to a Type I or II review process, the community development director or designee shall make the staff report and all case file materials available at the time that the notice of the decision is issued;

b. In the case of an application subject to a public hearing (Type III or IV process or a **Type II review on appeal**), the community development director or designee shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case file materials available when notice of the hearing is mailed, as provided by Sections 17.05.300(C) (Type II), 17.05.400(C) (Type III), or 17.05.500(D) (Type IV);

5. Administer the application and hearings process;

6. File notice of the final decision in the city's records and mail a copy of the notice of the final decision to the applicant, all persons who provided comments or testimony, persons who requested copies of the notice, and any other persons entitled to notice by law;

7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice, the application and all supporting information, the staff report, the final decision (including the findings, conclusions and conditions, if any), all correspondence, minutes of any meeting at which the application was considered, and any other exhibit, information or documentation which was ~~considered by the decision-maker(s) on the application~~ **made part of the record**; and

8. Administer the appeals and review process.

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the community development director or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The community development director or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within fourteen business days after the original decision would have become final, but in no event beyond the one-hundred-twenty-day period required by state law. A new ten-day appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

same, unless there is substantial change in the facts or a change in city policy that would change the outcome, as determined by the community development director or designee.

H. City Council Review. The city council shall have the authority to call up any Type II or Type III application for review. The decision to call up an application may occur at any time after the application is filed until the decision is otherwise final. When the city council calls up an application, the council shall, in its order of call-up, determine the procedure to be followed, including the extent of preliminary processing and the rights of the parties. At a minimum, the council shall follow the procedures in Section ~~17.05.550~~ ~~17.05.400(F)~~, regarding appeals from Type III decisions. (Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

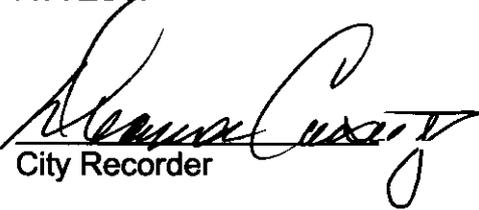
**SECTION 8.** Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word Ordinance may be changed to "code", "article", "section", "chapter", or other word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions need not be codified and the City Recorder is authorized to correct any cross references and any typographical errors.

**SECTION 9.** Effective Date. The Central Point City Charter states that an ordinance enacted by the council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

Passed by the Council and signed by me in authentication of its passage this 23<sup>rd</sup> day of February, 2017.

  
Mayor Hank Williams

ATTEST:

  
City Recorder

RESOLUTION NO. 1491

**A RESOLUTION REVISING THE CLASSIFICATION PAY PLAN**

**RECITALS:**

1. Chapter 2.48 of the Central Point Code authorizes and directs the City Council to adopt rules relating to personnel matters. The City Council has heretofore by Resolution Number 1085 adopted and revised such rules, including the Classification Pay Plan.
2. Policy #5.2.3 of the Personnel Policies and Procedures provides that the Council shall, by resolution, adjust the salaries and rates of compensation and benefits for all City officers and employees. The City Council deems it to be in the best interest of the City to make revisions thereto.

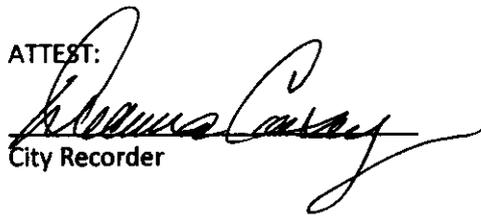
**The City of Central Point resolves as follows:**

The Classification Pay Plan for bargaining unit and management employees, as attached, is hereby ratified and adopted retroactive to January 1, 2017.

Passed by the Council and signed by me in authentication of its passage this 23<sup>rd</sup> day of February, 2017.

  
Mayor Hank Williams

ATTEST:

  
City Recorder

**Classification Pay Plan Effective January 1, 2017**

**Part A: General Service Bargaining Unit Positions (hourly) (monthly)**

<b>Classification Title</b>	<b>Grade</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
<b>Grade 2-3</b>	<b>GS2-3</b>	<b>15.64</b>	<b>16.42</b>	<b>17.24</b>	<b>18.10</b>	<b>19.01</b>	<b>19.96</b>
Office Assistant		2,711	2,846	2,988	3,137	3,295	3,460
<b>Grade 4</b>	<b>GS4</b>	<b>17.06</b>	<b>17.91</b>	<b>18.81</b>	<b>19.75</b>	<b>20.74</b>	<b>21.78</b>
Account Clerk: Accounts Payable		2,957	3,104	3,260	3,423	3,595	3,775
Account Clerk: Payroll/Purchase Orders							
Account Clerk: Utility Billing							
Community Development Support Specialist							
Parks Maintenance Worker							
Utility Worker							
<b>Grade 5</b>	<b>GS5</b>	<b>19.17</b>	<b>20.13</b>	<b>21.14</b>	<b>22.20</b>	<b>23.31</b>	<b>24.48</b>
Assistant Engineering Technician		3,323	3,489	3,664	3,843	4,040	4,243
Customer Service Technician							
Equipment Maint/Fabrication Technician							
Planning Technician							
PW Administrative Assistant							
Recreation Programs Coordinator							
Senior Utility Worker							
<b>Grade 6</b>	<b>GS6</b>	<b>21.23</b>	<b>22.29</b>	<b>23.40</b>	<b>24.57</b>	<b>25.80</b>	<b>27.09</b>
Acctg/Business Services Coordinator		3,680	3,864	4,056	4,259	4,472	4,696
Parks Lead							
Recreation Coordinator: Special Events/Mktg							
<b>Grade 7</b>	<b>GS7</b>	<b>23.40</b>	<b>24.57</b>	<b>25.80</b>	<b>27.09</b>	<b>28.44</b>	<b>29.86</b>
Community Planner I		4,056	4,259	4,472	4,696	4,930	5,176
Foreman: Streets, Water							
<b>Grade 8</b>	<b>GS8</b>	<b>26.19</b>	<b>27.50</b>	<b>28.88</b>	<b>30.32</b>	<b>31.84</b>	<b>33.43</b>
Community Planner II		4,540	4,767	5,006	5,255	5,519	5,795
Construction Management Coordinator							
Environmental Services/GIS Coordinator							
Information Technology Specialist							
<b>Grade 9</b>	<b>GS9</b>	<b>29.07</b>	<b>30.52</b>	<b>32.05</b>	<b>33.65</b>	<b>35.33</b>	<b>37.10</b>
		5,039	5,290	5,555	5,833	6,124	6,431

**Part B: Police Bargaining Unit Positions**

<b>Classification Title</b>	<b>Grade</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
Police Support Specialist	<b>P110</b>	3,019	3,170	3,329	3,495	3,670	3,854
Community Services Officer	<b>P117</b>	3,204	3,364	3,532	3,709	3,894	4,089
Police Officer	<b>P145</b>	4,107	4,312	4,528	4,754	4,992	5,242
Corporal	<b>P150</b>	4,542	4,769	5,007	5,257	5,520	5,796

**Part C: Exempt, Non-Bargaining Unit, Management Positions**

<b>Classification Title</b>	<b>Band</b>	<b>Minimum</b>	<b>Maximum</b>
Accountant/Finance Supervisor	I	5,150	6,900
City Recorder	I	5,150	6,900
Parks & Recreation Manager	I	5,150	6,900
Public Works Operations Manager	I	5,150	6,900
Building Division Manager	II	6,150	8,000
Department Director (CD, FIN, HR, IT, PPW)	III	6,500	9,150
Police Office Manager	P-I	4,150	5,600
Police Lieutenant (non-exempt)	P-II	5,700	7,600
Police Captain	P-III	6,800	8,800
Police Chief	P-IV	7,900	10,050

Approved by Council Resolution # \_\_\_\_\_

RESOLUTION NO. 1492

**A RESOLUTION INCREASING THE  
TRANSPORTATION UTILITY FEE IN REGARDS TO  
THE AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE**

Recitals:

- A. In 2008 the City Council adopted Ordinance 1910 establishing the Transportation Utility Fee.
- B. The City adjusted the fee in 2014 to remove minimum and maximums for commercial users pursuant to Resolution 1391.
- C. Additional revenue is needed to start compliance with the Americans with Disabilities Act (ADA) retrofits for existing signalized intersections and streets.
- D. The current equivalent service unit is \$4.98 or \$0.5203 per average daily trip for residential rates and \$0.2207 for commercial rates.
- E. Additional revenues generated by this increase would be dedicated to fund ADA compliance.

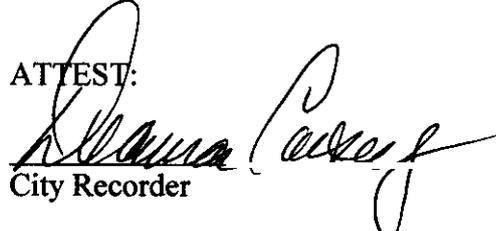
**The City of Central Point Resolves as follows:**

- Section 1. Increase the Transportation Utility Fee from \$0.5203 per average daily trip (ADT) to \$0.627 (ADT) for residential rates and \$0.2207 to \$0.266 ADT for commercial rates. A full list of rates is attached as Appendix A incorporated herein by reference.

Passed by the Council and signed by me in authentication of its passage this 23rd day of February, 2017.

  
Mayor Hank Williams

ATTEST:

  
City Recorder